

Housing Accords and Special Housing Areas Bill

A new bill that addresses national concerns around housing supply and affordability is currently before Parliament.

The Housing Accords and Special Housing Areas Bill passed its first reading on 16 May 2013, and has been sent to the Select Committee for urgent consideration.

It is a stand-alone piece of legislation which seeks to address New Zealand's housing concerns by creating Special Housing Areas and Housing Accords. These mechanisms are intended to enable central Government and territorial authorities to work collaboratively, and signal a new approach for planning residential expansions.

According to Housing Minister Dr Nick Smith new developments need to be predominately residential, in greenfield or brownfield areas adequately supported by infrastructure, limited to low-rise construction and in areas of high housing demand.

The Bill is a component of the 2013 Budget, which allocates \$7.2 million over four years to fund the initiative. The legislation was considered as one of four options to address housing concerns, and was regarded as most appropriate because it provides a fast and certain means of consenting new land for residential development and redevelopment over the next three years.

The creation of Special Housing Areas is intended to help streamline the consenting process. The term is defined as specific geographical areas within scheduled regions or districts which have the potential to deliver increased land and housing supply.

Under the Bill, the Government is able to identify regions and districts with significant housing supply and affordability issues, and include them in a schedule by way of an Order in Council. Currently, Auckland has been identified and included; however Dr Smith has indicated that Wellington, Tauranga, Christchurch and Hamilton are also likely to be incorporated. All Special Housing Areas will be disestablished by 30 June 2016.

Special Housing Areas will be established by Order in Council on the recommendation of the Housing Minister. Before recommending such an Order, the Minister must be satisfied that:

- With appropriate infrastructure the proposed Special Housing Area could be used for qualifying developments
- There is evidence of demand to create qualifying developments in specific areas of the scheduled region or district
- There will be demand for residential housing in the proposed Special Housing Area

Housing Accords will be agreements between a territorial authority in a scheduled area and the Government to work collaboratively towards addressing housing supply and affordability.

Where a Housing Accord exists it will enable territorial authorities to operate under the new regulatory powers provided under this legislation, and may also include non-regulatory initiatives. An Accord will specify how the parties will work together to achieve the purpose of the Bill and set

agreed targets for residential developments. It may also provide for the Minister and the territorial authority to work together across a wide range of housing issues.

Where a Housing Accord is in place in a scheduled area, the Minister will only recommend the establishment of a Special Housing Area on the recommendation of the territorial authority. While the intention is that councils and the Government will work in good faith to secure Housing Accords, if an agreement cannot be reached the Bill gives the Government the ability to establish Special Housing Areas and to issue consents for developments in areas of severe housing unaffordability.

Within the Special Housing Areas, resource consent and plan change processes will be made more permissive to provide for increased housing supply, allowing large developments which may not otherwise proceed. The Bill's streamlined consenting process will apply to qualifying developments, defined as being predominantly residential and meeting specific criteria set by the Governor General on recommendation of the Minister, in relation to the following matters:

- The maximum height that houses and other buildings forming part of the development may be, or the number of storeys or floors (not exceeding six) that they may have; and
- The minimum number of dwellings to be built as part of the development.

The criteria may be varied by an Order in Council on the recommendation of the Minister. Where there is a Housing Accord, the territorial authority may substitute the conditions set out above for the height or capacity prescribed in a plan applying to the Special Housing Area. No qualifying criteria may enable a development of greater than six floors.

Once a resource consent application for a qualifying development is made, the authorised agency (the territorial authority where there is a housing accord, or the chief executive of the Ministry where there is not) must generally process the application within 60 working days. A limited notification process may apply if the authorised agency identifies an adjoining landowner (or, in some circumstances, the NZTA) that would be adversely effected by the proposed activity. In instances where a plan change is being sought alongside resource consent, the timeframe may be extended to 130 working days.

In considering the application, the authorised agency must reach a decision which is consistent with and gives effect to the purpose of the Bill. They must also be satisfied that sufficient and appropriate infrastructure will support the development. This could be provided by the council, developer or a third party. They must also take into account the matters set out in Part 2 and sections 104 to 104E of the Resource Management Act 1991 (RMA) and the Ministry for the Environment's New Zealand Urban Design Protocol (2005).

District Plan Changes

If there is a plan change involved, the Bill only applies to qualifying developments in a Special Housing Area within the district of a territorial authority which is party to a Housing Accord.

A person may make an application for a change to the operative plan if it does not provide for any residential development in the Special Housing Area. The request may only relate to a change or variation necessary to facilitate the consideration of a resource consent application for a qualifying development. The application must contain an evaluation in accordance with section 32(3) to (5) of the RMA for any objectives, policies and rules, and a description of the anticipated environmental effects in accordance with Schedule 4 of the RMA.

The plan change request will only be notified if the applicant has not obtained prior written approval of the adjoining land owners. The accord authority must give its decision within 130 working days,

and must give effect to the purpose of the Bill, and have regard to Part 2 of the RMA and the matters in section 74.

Appeals

The Bill also restricts appeal rights, with no right of appeal against decisions on developments up to three storeys in height. Appeals to the Environment Court can occur on those between four and six storeys by the applicant or person who made a submission on the application. Judicial review is available only if the right of appeal to the Environment Court has already been exercised. The Bill also includes a right of objection, which may be exercised by those parties set out in the Bill. Section 357C of the RMA applies to an objection under the Bill, but there is no right of appeal from a decision on an objection.

Auckland Accord

An Auckland Housing Accord was agreed earlier this month, and is intended to address housing supply issues until the Auckland Council's Unitary Plan becomes fully operative in 2016.

The Accord allows for the Council to appoint an independent panel to hear submissions and make decisions on applications for developments. Panel decisions will be final for developments of up to three storeys. The three year agreement sets a target of 9000 additional residential houses being consented in year one, 13,000 in year two, and 17,000 in year three.

Developments will have to comply with the rules in the Unitary Plan when it is formally notified, and the Accord will expire when it becomes operative.

Auckland Mayor Len Brown has expressed reservations at the legislation:

"There are clauses in the bill introduced today that appear to be inconsistent with the Auckland Housing Accord. My expectation is that the Select Committee process will provide an opportunity to clear up these inconsistencies."

Submissions on the Bill close on 30 May 2013. The Select Committee is expected to report back by 26 July 2013.

You can view the Bill at:

www.legislation.govt.nz/bill/government/2013/0117/latest/DLM5204721.html?src=qs

If you would like further information or assistance with regards to this draft legislation, please contact one of our partners in our resource management team.